



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

August 13, 1998

Mr. Michael J. Currie  
Henslee, Fowler & Hepworth  
816 Congress Avenue, Suite 800  
Austin, Texas 78701-2443

OR98-1926

Dear Mr. Currie:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 116588.

The Lake Dallas Independent School District (the "district"), which you represent, received a request from the Hunt County Child Fatality Review Team (the "review team") for the district's records pertaining to a particular student, who is now deceased. You inquire whether the requested records must be withheld pursuant to the Family Educational Rights and Privacy Act of 1974 ("FERPA"), 20 U.S.C. § 1232g, or sections 552.026 and 552.114 of the Government Code, or whether the review team has a special right of access to these records pursuant to section 264.509 of the Family Code.

We first address whether the records at issue must be withheld as student or educational records. Section 552.026 of the Government Code states that the Open Records Act does not require the release of information contained in education records of an educational agency or institution, except in conformity with FERPA. Additionally section 552.114 of the Government Code excepts from disclosure information in a student record at an educational institution funded wholly or partly by state revenue. However, the confidentiality accorded student records by section 552.114 and FERPA terminates upon the death of the student. Open Records Decision No. 524 at 4 (1989). Therefore, the records at issue are not excepted from disclosure under FERPA or section 552.114 of the Government Code.

We now address whether the review team has a special right of access to the requested records. Section 264.508 of the Family Code provides that "[t]he review team of the county in which the injury, illness, or event that was the cause of the death of the child occurred, as stated on the child's death certificate, shall review the death." Section 264.509 of the Family Code provides in part as follows:

(a) A review team may request information and records regarding a deceased child as necessary to carry out the review team's purpose and duties. Records and information that may be requested under this section include:

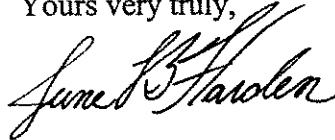
- (1) medical, dental, and mental health care information; and
- (2) information and records maintained *by any state or local government agency*, including:
  - (A) a birth certificate;
  - (B) law enforcement investigative data;
  - (C) medical examiner investigative data;
  - (D) juvenile court records;
  - (E) parole and probation information and records; and
  - (F) child protective services information and records.

(b) On request of the presiding officer of a review team, the custodian of the relevant information and records relating to a deceased child shall provide those records to the review team. [Emphasis added.]

School districts are subdivisions of state government and are trustees for the local public. *See generally* 65 TEX. JUR. 3D *Schools* § 19 (1996). We therefore conclude that the district is a "state or local government agency" and accordingly must provide the requested records to the review team pursuant to section 264.509(b) of the Family Code.<sup>1</sup>

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied on as a previous determination regarding any other records. If you have any questions regarding this ruling, please contact our office.

Yours very truly,



June B. Harden  
Assistant Attorney General  
Open Records Division

JBH/RWP/ch

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<sup>1</sup>Because the review team has a special right of access to the records at issue, we do not address the extent to which these records may be released to the general public except to note that some of this information may be deemed confidential by law.

Ref: ID# 116588

Enclosures: Submitted documents

cc: Dr. David K. Fry  
Presiding Officer  
Hunt County Child Death Review Team  
4818 Wellington Street, Suite 1  
Greenville, Texas 75402  
(w/o enclosures)